Service Date: February 21, 1997

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF EXTENDED AREA SERVICE, Exchange to Exchange and Regional, for Qualifying U S West Communications' Exchanges and Priority Required Exchanges.	)	UTILITY DIVISION DOCKET NO. D95.10.146 ORDER NO. 5889b

and

IN THE MATTER OF EXTENDED AREA SERVICE, West Glacier and PTI Valley-Wide Calling.	)	UTILITY DIVISION DOCKET NO. D95.10.147 ORDER NO. 5890b

FINAL ORDER

APPEARANCES

FOR THE APPLICANT:

Mary Hobson, Attorney at Law, Elam and Burke, P.O. Box 1539, Boise, Idaho 83701, on behalf of U S West Communications, Inc.

FOR THE INTERVENORS:

Mary Wright, Staff Attorney, Montana Consumer Counsel, 34 West Sixth Avenue, P.O. Box 201703, Helena, Montana 59620-1703, for the Montana Consumer Counsel

Richard Wolters, Staff Attorney, AT&T Communications of the Mountain States, Inc., 1875 Lawrence Street, Room 1575, Denver, Colorado 80202, for AT&T

Calvin Simshaw, Corporate Counsel, Northwest Telephone Systems, Inc., dba PTI Communications, 805 Broadway, Vancouver, Washington 98660, for PTI

Ivan C. Evilsizer, Attorney at Law, 2709 Gold Rush Avenue, Helena, Montana 59601, for Ronan Telephone Company

<u>FOR THE COMMISSION</u>:

Martin Jacobson, PSC Staff Attorney, and Mike Sheard, Rate Analyst, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601

<u>BEFORE</u>:

DAVE FISHER, Chairman
NANCY MCCAFFREE, Vice-Chair
BOB ANDERSON, Commissioner
DANNY OBERG, Commissioner
BOB ROWE, Commissioner

<u>INTRODUCTION</u>

1. Rules of the Public Service Commission (PSC) define telephone extended area service (EAS) as "a calling service between two exchanges or among several exchanges within a region, provided as local service at local exchange rates or at an increment to local exchange rates rather than at toll prices." ARM 38.5.1305(1). Through implementation of EAS an existing area in which calls are local for rate purposes (normally the area within the boundaries of an "exchange") is expanded to include the area within one or more additional exchanges. All calls between points within the expanded area are treated as local calls.

2. With EAS the local rates in the expanded area generally must increase to offset the costs of EAS, including costs associated with the revenues lost through the abolishment of toll (long distance) rates. ARM 38.5.1315. This is so because the affected PSC-regulated telephone companies generally are rate base rate of return regulated and through such regulation have an established revenue requirement to which the eliminated toll rates have contributed.

3. EAS may be between two exchanges or among several exchanges in a region. The matters being decided here involve proposals to implement EAS on a regional basis. Docket No. D95.10.146 is consideration of EAS among U S West Communications, Inc. (USW), exchanges within seven regions (the Billings, Bozeman, Butte, Great Falls, Helena, Missoula, and Yellowstone regions). Docket No. D95.10.147 is consideration of EAS between USW’s

West Glacier exchange and the Northwest Telephone Systems, Inc., dba PTI Communications (PTI), exchanges in PTI's valley-wide calling area (Flathead Valley).

4. Although Docket No. D95.10.146 is now a consolidation of several matters separately noticed, for all practical purposes, both it and Docket No. D95.10.147 were initiated by PSC notices issued in October, 1995. Those notices followed the PSC's September, 1995, repeal of then-existing EAS rules (ARM 38.5.1301 through 38.5.1303) and adoption of new EAS rules (ARM 38.5.1305 through 38.5.1315). That rulemaking followed a previous formal PSC investigation into EAS (Docket No. 94.2.5).

5. The matters were also publicly noticed at the beginning of both the community of interest phase (ARM 38.5.1313) and the cost analysis and rate design phase (ARM 38.5.1315) of the EAS process. Additionally, the PSC has publicly noticed and held over 20 local (satellite) hearings within the affected areas. A wealth of public comment has been received through those satellite hearings as well as through writings directed to the PSC. The PSC also conducted a technical hearing on the merits of the proposed EAS. Arguments were submitted by those participants who obtained formal party status, including USW, PTI, the Montana Consumer Counsel (MCC), AT&T Communications of the Mountain States, Inc. (AT&T), and Ronan Telephone Co. (Ronan). Arguments *amicus curiae* were submitted jointly by several independent pay phone providers.

FINDINGS OF FACT

General

6. The concept of EAS is simple. In an EAS area calls become local and local rates generally increase to recover the costs of EAS, but nothing more. Compared to the concept, ordering the implementation of EAS is complicated. There are numerous reasons for this, but there are several primary ones. Major changes in federal and state law and policy, some implemented and some yet to be implemented, have recently occurred and will likely continue to occur in regard to the telecommunications industry. Most of the changes are toward facilitating competition. That, plus related cases pending before the PSC, particularly those involving USW, may have an effect on the continued propriety of approving EAS, as that might be viewed

through time. Furthermore, although factual and legal requirements must be met before EAS can be ordered, to a large extent EAS is a matter of policy.

7. Resolution of EAS issues is dependent on a correct assessment of what is fair and equitable to all consumers and in the best interests of the public as a whole. Based on the public comments received the EAS concept is strongly appealing to many consumers. At the same time EAS is not appealing to all; the PSC has received many public comments opposed to EAS.

Community of Interest

8. Pursuant to PSC rules EAS is considered in two phases, the community of interest phase and the cost analysis and rate design phase. ARM 38.5.1309(2). The community of interest phase involves review of several things, including the geographical relationship between or among the exchanges proposed for EAS. It principally involves an analysis of data, primarily calling patterns (telephone traffic) between or among the exchanges, to determine whether there is enough of a sharing of interest from a telecommunications standpoint to justify EAS. The cost analysis and rate design phase is an analysis of what EAS will cost and how consumers should pay for those costs.

9. The community of interest phase requires a demonstration that the exchanges proposed for EAS meet the rule requirements. Included in the requirements are minimum calling criteria. ARM 38.5.1313. Although there are several alternative means of establishing it, generally a qualifying community of interest exists between or among exchanges if the petitioning or smaller exchange averages at least eight calls per month into the petitioned or larger exchange and more than fifty percent of the customers in the petitioning or smaller exchange make two or more calls per month into the petitioned or larger exchange. ARM 38.5.1313(2). This calling criterion has been met for all exchanges being considered in the present matters.

10. The PSC finds that the information supplied by USW and PTI is sufficient to establish that there is a community of interest among the exchanges in the seven proposed USW regions and in the proposed addition of USW's West Glacier exchange to PTI's valley-wide calling area. There has been no factual challenge to the data supporting the existence of a community of interest. Questions of law regarding West Glacier's community of interest with

PTI's valley-wide calling area have been raised and will be discussed in the conclusions of law, below.

Cost Analysis and Rate Design

11. The second phase of EAS proceedings is the cost analysis and rate design phase. For EAS between West Glacier and PTI’s valley-wide calling area PTI provided a cost analysis resulting in a proposed rate design which adds $0.14 to the monthly charges of all PTI valley-wide calling area customers. PTI’s cost analysis and rate design generated no controversy, either factually or legally.

12. For EAS in the seven USW regions and West Glacier to PTI's valley-wide calling, USW approached its cost analysis and rate design on a "statewide" basis, not an area-specific basis. Based on its cost analysis, USW proposed several alternatives for EAS increments (increases) to flat rate services (residential and business): (a) a "statewide" increment of $2.62 per month (later amended to $2.55); (b) a region-specific alternative based on the number of lines in the region, the increment being approximately $1.20 for 20,000 lines or less, $2.10 for 20,001 to 45,000 lines, and $3.22 for 45,001 lines or more; and (c) an exchange-specific alternative varying the amount of the increment between the smaller and larger exchanges in a region, the increment for smaller exchanges ranging from a low of $4.00 to a high of $10.19 and for the larger exchanges a low of $1.00 and a high of $2.36.

13. For the local measured service rate USW initially proposed that an EAS increment also be added to the measured service base rates (residential and business), the per-minute part of the measured rates ($0.01) remaining the same. A post-hearing stipulation between USW and MCC included two measured service rate alternatives for customers: (a) the existing measured service option, at the existing rates; and (b) a new measured service option with an increased base rate that includes 180 minutes of local calling, the existing per-minute charge applying thereafter (available to residential customers only). Also pursuant to the terms of the stipulation, for a period of 90 days after the implementation of EAS, USW customers can change their local service option without charge and for an additional 180 days can make a change to their local service option once more without charge.

14. USW’s rate design proposals were extensively discussed at the public hearings, but received little comment at the technical hearing. USW stated its preference for a uniform statewide increment over the other alternatives. The basis for rate design, USW's cost analysis, did receive some criticism, which is discussed in the conclusions of law, below.

CONCLUSIONS OF LAW

Procedural

15. AT&T and to a lesser extent MCC both question whether USW and PTI have followed the required procedures (e.g., minimum filing requirements, prefiling of testimony) to obtain EAS under the PSC’s rules. AT&T argues that USW has not complied with the PSC’s minimum filing requirements because USW did not analyze three of the seven "impacts" included at ARM 38. 5.1315 for the cost analysis and rate design phase. Those three are the cost shifts from interstate to intrastate, the net changes in billing and collection revenues, and the changes in switched access allocations. USW argues the identified items do not yield cost and revenue impacts and are therefore not required to be analyzed. USW also points out that, because the present matters do not involve independent companies, billing and collection costs need not be considered. The PSC agrees with AT&T in regard to what the rules require. USW should have made at least some notation of the reason why the identified analyses were not presented. However, the PSC agrees with USW that the identified items are not essential to a decision in the present matters.

16. AT&T and MCC both argue some prejudice exists to all intervenors because neither USW nor PTI prefiled testimony and USW was allowed extensive live testimony during the technical hearing. USW argues pre-filed testimony was unnecessary and the applicable rule only requires that "necessary" testimony be filed. ARM 38.5.1315(1). USW also argues it did not supply new information through live testimony to the prejudice of any party. The PSC agrees with USW’s assessment of the issue. EAS has been a subject before the PSC for the past several years and the parties involved in the present matters were involved in the preceding matters, including the recent EAS rulemaking. At the time of the USW and PTI filings, EAS was not in need of extensive explanation or debate on the concept, but in need of a community of interest

analysis and determination and a cost analysis and rate design analysis and determination, in regard to both of which USW and PTI supplied sufficient information.

17. AT&T also argues USW and PTI have not proposed an interconnection arrangement as required by ARM 38.5.1315(4). USW and PTI argue the rules do not prescribe a time that interconnection arrangements must be presented. To the extent the rules contemplate that interconnection arrangements should be proposed as a part of the EAS filing the PSC agrees with AT&T. However, the effect of USW and PTI not filing such proposal is insignificant at the present time, is essentially a matter between USW and PTI, and can be expected to be resolved prior to (or during) implementation of EAS.

18. The PSC determines that USW and PTI have substantially complied with the rules governing EAS, procedurally and otherwise, and, to the extent that USW or PTI did not so comply, the objecting parties have not been actionably prejudiced. Furthermore, the parties failed to raise a proper objection in regard to any shortcoming with USW's or PTI's prefiled testimony at an appropriate time (i.e., at least reasonably soon after USW made its cost analysis and rate design filing).

Community of Interest

19. Community of interest has not been challenged in regard to the EAS regions proposed in D95.10.146 (USW's seven regions). In regard to D95.10.147 (West Glacier to PTI), Ronan comments (and AT&T agrees) that the calling criterion has not been met because none of the fifteen PTI exchanges have met the criterion for calls to West Glacier and West Glacier meets the criterion for calls to only one of the PTI exchanges, that being the Kalispell exchange. Ronan's preliminary observations are correct, but its conclusion is not. For inclusion in a region all that is required is that an exchange "meet the criteria with at least one exchange within the region... ." ARM 38.5.1311(4)(a). West Glacier meets the criterion with at least one exchange within the region, Kalispell, and community of interest is thereby satisfied.

20. Ronan also comments that PTI's valley-wide calling area is not an EAS region. Ronan is incorrect insofar as its comments pertain to the applicability of criterion for an exchange to qualify for community of interest with a region. Ronan's observation is correct that PTI's calling area, which was established prior to the PSC's new EAS rules, was not established

under the PSC's previous EAS rules. However, that does not mean the PTI calling area is not a "region" for purposes of determining whether an additional exchange qualifies to be added. The term "region" is defined as "an area wherein more than one exchange share a community of interest with a common exchange or wherein successful, practical, or equitable EAS necessitates intermediate, intervening, or area exchanges be considered as required exchanges." ARM 38.5.1305(5). The definition is met for the proposed EAS between West Glacier and PTI's valley-wide calling area, likely in more than one way, but at least in regard to "share a community of interest with a common exchange." Furthermore, the PSC has the option, in its sole discretion, to designate an area of exchanges as a region and, if it should become necessary for purposes of determining whether the applicable criterion for establishing EAS should be the regional criterion, could likely do so in regard to PTI's valley-wide calling area. ARM 38.5.1311(3).

21. The PSC determines that a sufficient community of interest has been established for all exchanges in USW's seven proposed EAS regions and for USW's and PTI's proposed EAS between West Glacier and PTI's valley-wide calling area. This determination was also made prior to the PSC initiating the second phase of EAS (the cost analysis and rate design phase). When the community of interest criterion is met between exchanges or among exchanges in a region there is a strong indication that EAS may be appropriate. In the present matters it is quite possible that customers within the existing, and somewhat dated, boundaries of an exchange should have no special claim of right to the advantages of local calling to the exclusion of customers who might be outside the boundaries but share a significant community of interest. Where community of interest has been established through calling criteria and supported by presentation of testimony and comment as in the present matters, the availability of local calling to friends, relatives, schools, medical facilities, professions, governments, wholesale and retail businesses, as well as others within the community, are some of the advantages that the community as a whole, rather than a part of that community, should have readily available.

22. Public interest is related to community of interest. EAS has generated a relatively significant amount of public input. Comment, testimony, and arguments regarding the public interest have been made throughout these EAS proceedings. USW argues that it has been

overwhelmingly demonstrated that EAS is in the public interest and will be a great benefit to customers. PTI continues to support its local calling plan. With the possible exception of Ronan, the intervenors do not oppose EAS in general. As expressed at the post-hearing USW and MCC measured rate stipulation presentation, MCC supports adoption of EAS if it includes the measured rate options pursuant to the stipulation.

<u>Cost Analysis and Rate Design</u>

23. USW’s cost analysis was met by two primary objections. MCC argues that the revenue neutrality concept should be reconsidered in light of the new telecommunications environment, where competition will likely erode USW’s toll revenues. MCC believes EAS shields USW from declining toll revenues. USW argues that the PSC’s rules provide that it must be compensated for lost toll revenues and the rules prescribe a rational and easily-administered "snap-shot" methodology for computing lost revenues. What might have occurred to those revenues beyond that point, whether it be an increase or a decrease, is not to be considered. USW also points out that although its overall toll revenues may have been declining, for the routes in question the revenues have actually increased during the last year.

24. Although not agreeing entirely with USW's argument, the PSC agrees that EAS, through replacing toll calling with local calling, precludes any precise review of what would or would not have happened to toll revenues had EAS not been implemented. Therefore, calculating lost toll revenue at a point in time is the appropriate mechanism.

25. MCC also argues that USW’s proposed costs are too high, particularly the amount proposed for plant reinforcements. USW disagrees, but has stated that it intends to adjust actual rates to reflect actual costs when those costs become known. USW's ongoing review of actual costs already has resulted in one reduction in the proposed EAS flat rate during this proceeding. The PSC believes that a reporting requirement is the appropriate means to further review USW's costs and will establish a reporting requirement in this Order.

26. Certain pay phone providers argue (*amicus*) that the mandatory EAS proposal jeopardizes the continuation of their $.25 local calling rate. The providers suggest that EAS be optional and that the EAS increment not be applied to the public access line (PAL) rates. The providers are also troubled by USW building lost toll revenues by adding pay phone revenues.

USW initially stated that it intended EAS to apply to PAL rates, but has subsequently explained that such is not the case. PTI argues that there is no basis for the providers' proposition regarding EAS not applying to PAL rates.

27. The PSC determines that any issue regarding the effect of EAS on pay phone providers or PAL rates has not been fully developed by the pay phone providers, factually or legally. The issue was raised late in the proceeding and the only appropriate avenue of participation by that time was through public testimony and *amicus* argument. However, it appears that at least some of the pay phone providers' concerns are being addressed through action at the federal level and by indications from USW that it will not apply an EAS increment to PAL rates.

28. In regard to rate design the PSC determines that USW residential customers in the affected exchanges should have the flat rate and the existing and new measured rate options and USW business customers should have the flat rate and the existing measured rate option to choose from. The PSC determines that of the various flat rate EAS increments presented, the uniform "statewide" increment is the most appropriate. It is easily administered, easily understood, and most consistent with the manner in which local phone rates have traditionally been set (statewide averaging, per-company). The initial increase will be $2.55, but that amount might be subject to adjustment up or down, depending on the actual costs of implementation when those costs are determined. The PSC will include a reporting requirement in this Order for future review of those costs.

29. The PSC determines that the measured rate options in the USW and MCC stipulation are preferable to USW's initial proposed measured rate increment. The stipulated versions leave the existing measured service rate unaffected for residential and business customers while providing residential customers with an additional measured rate option. These measured options address the concerns of customers who might find it difficult or who are reluctant to pay the increased flat rate resulting from EAS. The measured rate alternatives will also help preserve universal service (the price of phone service should be such that all wanting service can afford it).

30. There has been some discussion concerning area-specific rates. While these are not precluded by the PSC's EAS rules, the majority of telephone rates have long been and

presently remain established on a statewide averaging basis per-company and not by costs particular to any given exchange. Therefore, there is no compelling reason to pursue area-specific rates at this time. However, as competition evolves in the local exchange markets, rate averaging may become increasingly difficult to sustain, and the issue may need to be revisited.

Optional EAS

31. An EAS proceeding, as described in the PSC's EAS rules (ARM 38.5.1305 through 38.5.1315), can be commenced by request of consumers or by direction of the PSC (the present cases are PSC-initiated). Accordingly, the rules have particular elements or safeguards (e.g., revenue neutrality, ARM 38.5.1315, mandatory not optional, ARM 38.5.1307(2), and others) which simplify and remove problematic and contentious aspects of EAS, thereby allowing it to be readily compelled against a telephone company, in the event there might be some reluctance in that company to pursue it. The EAS rules are designed to reduce some of the risk and uncertainty associated with implementing EAS. Pursuant to the rules, EAS must be mandatory to all customers in the affected exchanges. Customers may not "opt out" of EAS and elect to maintain their pre-EAS levels of local and toll services. ARM 38.5.1307(2).

32. Several parties prefer optional EAS. AT&T supports optional EAS since mandatory EAS forces customers to accept it. AT&T suggests the PSC should permit local exchange carriers to offer local calling plans as the carriers see fit, but with traffic exchanged pursuant to existing local calling compensation arrangements or other cost-based interconnection arrangements. AT&T suggests customers could then select a plan that provides for their needs. AT&T agrees that any optional EAS would require a PSC rule change. MCC also argues optional EAS should be implemented. The pay phone providers (*amicus*) prefer optional EAS.

33. USW responds that the PSC's mandatory EAS requirement was determined during EAS rulemaking and the requirement has benefits including ease of use, predictability of calling patterns, a more stable rate design, and lower rates. The PSC agrees an extensive analysis of whether EAS should be mandatory rather than optional was done in the PSC's previous EAS investigation and rulemaking. The points raised by USW regarding the technological difficulties of implementing optional EAS on its network and the unpredictability of participation rates under optional EAS were raised at that time and considered as support for mandatory EAS.

34. USW also argues that experience shows most customers favor the options provided in USW's proposal and the difficulties in pricing and administering optional plans is not justified. USW argues its present proposal does offer options to consumers through a choice of rates. USW has agreed to maintain the existing measured service option with no EAS increase applying to it. Insofar as EAS is optional in the sense that customers have some options in service and rates, the PSC is not opposed to it.

35. The PSC determines that there are positive aspects about both mandatory and optional EAS. The positive aspects of mandatory EAS are listed above. The positive aspects of optional EAS include allowing customers to keep their same local calling scope. However, under the present PSC rules, EAS must be mandatory. Accommodating optional EAS in the present dockets would require the PSC to delay proceedings and commence a rulemaking to investigate a change to its rules (with no certainty the rules should or would be changed).

36. Local exchange companies are strongly encouraged to pursue optional extended local calling plans on their own. If a company were to determine that another means of providing some form of expanded local calling would be more suitable and the risks associated with that other means are acceptable to that company, the company can choose to propose an alternative form of expanded local calling other than that prescribed by the PSC's EAS rules. In Docket No. D96.5.85, the PSC approved optional expanded local calling plans for Citizens Telephone Company.

<u>Competition</u>

37. Another important question is whether EAS, as prescribed in the PSC's rules and presently proposed by USW and PTI, is compatible with a competitive environment. Both Montana law and the federal Telecommunications Act of 1996 encourage competition in telecommunications, so long as it is consistent with other policies such as maintaining universal service (§ 69-3-802, MCA). No party has expressed any disagreement that EAS, especially mandatory EAS, effectively eliminates toll service between points within the area in which it is implemented. In theory toll could still be offered for such calls in an EAS area, but the toll rates would likely be high in comparison to the EAS rates and probably would not be a service option chosen by many consumers. USW has suggested that preservation of a toll service for calls

within an EAS area has no practical effect as customers will not choose it. Even optional EAS likely would eliminate some toll service and, depending on the participation rate, could also effectively eliminate all toll service for routes within an EAS area. The elimination of toll for routes within an EAS area effectively precludes toll competition for those routes. However, at the same time that the toll service is eliminated, EAS expands local service.

38. Ronan argues this result is contrary to competition because it eliminates potentially-competitive toll service and replaces it with a monopoly local service. AT&T argues that mandatory EAS effectively prohibits entities from providing toll service and is therefore anti-competitive. AT&T's most specific legal argument is that the Telecommunications Act precludes a state from prohibiting the ability of any entity to provide any intrastate telecommunications service. To AT&T, EAS eliminates competitors who are willing to compete for toll only and, therefore, eliminates toll competition. MCC argues EAS may have both positive and negative effects on competition. However, to MCC mandatory EAS limits customer choice, which is an unacceptable result in a competitive environment. To MCC optional EAS would enhance both toll and local competition.

39. USW points out that state commissions have been specifically authorized by the Federal Communications Commission to define local calling areas and no place in the Telecommunications Act is there any provision suggesting that expansion of local calling areas creates an illegal barrier to competition. USW also argues EAS does not hinder competition, but shifts the emphasis from toll competition to local competition. USW points out that EAS does not eliminate toll competition, but merely excludes certain routes from toll calling. USW further argues EAS should not be considered only in light of its effect on competition, but in light of the needs of customers. To USW, denying EAS denies satisfying customer needs. USW also suggests mandatory EAS increases the ease at which local competition can be implemented. USW also comments the PSC has already recognized that toll competition has not come to the routes within the EAS regions.

40. The PSC agrees with USW that eliminating toll service for routes within an area does not eliminate toll service for routes from or to that area. Furthermore, commensurate with the reduction in toll, there is an expansion of local service. The PSC agrees in part with MCC on

the general effect of EAS on competition -- EAS may have both positive and negative effects on competition. However, the PSC agrees with USW that properly implemented EAS does not hinder competition; it shifts the emphasis from toll to local. The PSC also agrees with USW that the PSC has the authority to define local calling areas. The PSC also notes that efforts are currently underway to facilitate entry by competitive local exchange carriers to compete directly with the incumbent local exchange carriers. Ultimately, as competition develops, it will be customer demand that determines the scope of local calling.

41. AT&T also argues USW does not yet have resale and unbundled network elements on file. AT&T believes these are essential to local exchange competition. MCC agrees that without existing resale tariffs, EAS violates the federal Telecommunications Act by prohibiting competition. MCC argues that wholesale rates should be in place before EAS is implemented. USW counters that negotiation between new entrants and incumbents is the preferred method of opening local exchange markets and there is no legal requirement for USW to pre-empt that process by filing tariffs. On this point the PSC agrees with USW. The Telecommunications Act establishes a procedure whereby competitive local exchange carriers can begin negotiations with an incumbent to resell the incumbent's services, or to obtain use of the incumbent's network elements for purposes of providing local exchange services in competition with the incumbent. The PSC is actively involved in several of these proceedings and is aware that other negotiations may be occurring.

Revenue Responsibility Shifts

42. A final objection to EAS is based on the belief that revenue-neutral EAS requires a large number of customers to pay an EAS increment that exceeds those customers' toll charges that are avoided by the EAS arrangement simply to finance a benefit for a smaller number of other customers who have toll charges higher than the EAS increment. Some of the strongest voiced public comments critical of EAS have centered on this aspect.

43. The PSC considers this objection important and has deliberated the issue extensively. However, the PSC has been persuaded through testimony of the parties and comments from numerous customers that the local calling area boundaries being considered in the present matters do not coincide with customers' communities of interest. The PSC finds that

an unacceptable number of customers are currently being required to pay excessive amounts each month in toll bills for calls within their local community of interest. Therefore the PSC determines that approving the present EAS proposals is an appropriate measure at this time.

44. The PSC acknowledges that implementing EAS results in some revenue responsibility shifts among customers, but finds the present EAS proposals, when coupled with the measured service options presented by MCC and USW, to be in the public interest. EAS is intended to extend the benefits of local calling to an entire community. The measured rate options should significantly mitigate the rate impacts resulting from EAS implementation thereby reducing the risk of customers being forced to discontinue their phone service. This Order directs USW to ensure that all of its customers affected by these dockets are aware of the local measured service options and directs USW to file a plan with the PSC regarding how it intends to fully inform its customers of the choices available.

45. The PSC has historically, as a matter of good public policy, tried to maintain at least one affordable rate option to ensure all Montana customers have access to emergency dial tone. At one time multi-party rates provided a low cost option for consumers. As technology changed and it became no longer affordable to maintain such a pricing option the PSC determined that one benefit of local measured service was to provide the necessary less-costly option. In the course of the public hearings in the present matters the PSC was surprised to find how unaware consumers appear to be in regard to this pricing option. Given the public concern about upward pressure on local rates expressed because of EAS and other factors, the PSC believes it is USW's responsibility to better inform customers of the local measured service options approved in this Order. The PSC's approval of USW's request for EAS is largely due to the rate mitigation option offered in the USW and MCC stipulation. Therefore, the PSC will direct USW to prepare and submit a comprehensive public awareness campaign designed to increase the public's awareness of the local service options (and rates) that will be available. It is the PSC's intention that this effort will not be limited to bill inserts, but will include display ads in newspapers and preferably a multimedia advertising campaign to raise public awareness. In order for customers to make informed choices they must know the options available to them. It is incumbent on USW, who will reap the benefits of more stable revenue from this pricing option, to expend

resources to educate customers. This Order directs USW to submit a plan to accomplish this goal within 45 days of the service date above and concurrent with its reporting on deployment schedules for EAS.

ORDER

46. The PSC exercises jurisdiction over the above-entitled matters pursuant to Title 69, MCA. All introductory matters, findings of fact, and conclusions of law which can be considered as an order and should be so considered to preserve the integrity of this Order are incorporated herein. All pending objections and motions not specifically ruled on in this Order are denied to the extent that denial is consistent with this Order.

47. Considering the record, including all testimony and arguments of the parties, the public comments received, policy in the best interests of the public, and the law applying, the PSC determines that there is no compelling reason demonstrating that EAS should not be approved for the seven regions proposed and for West Glacier's inclusion in PTI's valley-wide calling area. In the present matters it is clear that EAS will provide direct benefits to many consumers and indirect benefits to others. EAS, as approved, is fair and equitable and in the public interest. The EAS rates as approved are just and reasonable, subject to the reporting requirements ordered below.

48. IT IS HEREBY ORDERED that EAS is approved for the seven USW regions proposed in Docket No. D95.10.146 and between USW's West Glacier exchange and PTI's valley-wide calling area proposed in Docket No. D95.10.147. In the approved regions and for West Glacier the per month EAS increment for all USW customers subscribing to flat rate service will be $2.55. In lieu of flat rate service USW residential and business customers shall have available as an alternative to flat rate service the measured service rate as it has existed pre-EAS, base rate and per minute charge, and residential customers shall have the additional alternative of a new (increased) measured service base rate, the per minute charge applying after the first 180 minutes of calling within the region. In addition, USW customers in the approved EAS regions and West Glacier will be allowed 90 days after implementation of EAS to change their local service option and an additional 180 days to make a further change, both the initial

and subsequent change (if any) to be allowed without charge. In the approved EAS for West Glacier to PTI's valley-wide calling area the per month EAS increment of $0.14 will be in effect for all PTI "valley-wide" customers. For purposes of this Order all reference to "increments," "increases," "existing rates," and the like are specific to this docket and are not intended to preclude rate adjustments, increases or decreases, which have resulted from separate matters processed prior to or during these EAS proceedings or which might result from future matters, including future proceedings involving EAS.

49. USW and PTI shall implement EAS in accordance with this Order. Within 45 days of the service date above USW and PTI shall file a detailed implementation plan for PSC approval. The implementation plan shall provide the schedule for full implementation of EAS and must include that implementation of EAS shall begin no later than 90 days from the service date above. Tariffs shall be filed at least 20 days prior to implementation. Within 45 days of the service date above USW will also file a plan describing in detail how it intends to present EAS to it customers, including its proposed advertising budget, customer education programs, and methods through which customers will be advised of the choices available to them. The plan shall be in accordance with all provisions of this Order, including at paragraph 45. The plans will be subject to PSC review and approval.

50. Six months from the date of implementation of EAS as approved in this Order and any subsequent approval of an implementation schedule and again at 12 months from the date of implementation USW shall file a report that details the costs of the EAS arrangements implemented pursuant to this Order for purposes of determining the appropriateness of the EAS increment. Upon reviewing the reports, the PSC may decide to adjust the increment to ensure revenue neutrality. Included with these cost reports USW shall also report on participation rates for the options made available.

Done and dated this 12th day of February, 1997, by a vote of 4-1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner
(Voting to Dissent - Attached)

DANNY OBERG, Commissioner

BOB ROWE, Commissioner
(Concurring Opinion - Attached)

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

CONCURRING OPINION OF COMMISSIONER ROWE

EAS DOCKET NO. D95.10.146 FINAL ORDER 5889b
and EAS DOCKET NO. D95.10.147 FINAL ORDER 5890b

I join in the Commission order. However, I continue to believe that - where it is workable - optional EAS service which customers may purchase as an addition to current local service is preferable. In this case, U S WEST argued that optional EAS was infeasible. Whether or not U S WEST is correct in this case, I continue to urge that ARM 38.5.1307(2) be amended to allow the Commission to order optional EAS in future cases where it may be appropriate. In the present case, local measured service, as an option to flat rate extended area service, will allow most customers who are willing to shop to achieve significant savings over what their bills would otherwise be.

RESPECTFULLY SUBMITTED this 12th day of February, 1997.

BOB ROWE, Commissioner

DISSENT OF COMMISSIONER ANDERSON

EAS DOCKET NO. D95.10.146 FINAL ORDER 5889b
and EAS DOCKET NO. D95.10.147 FINAL ORDER 5890b

In most cases before the Commission, the public interest involves balancing the interests of the regulated companies and their customers. This case is different. Promoted as being revenue neutral, it involves balancing the interests of different groups of customers.

I believe that, overall, as explained in the majority order, the Commission's decision is in the public interest:

Calling patterns indicate that, while local "communities of interest" in Montana have evolved over time to encompass both hub cities and spoke communities, local calling areas have not. Customers are now paying long distance rates for calls that are "local" in nature. EAS will lower total phone bills for many customers in both spoke communities and hub cities.

Commerce and societal intercourse will increase in the hub and spoke communities. Many people will have improved access to schools, centers of government, businesses, health care, friends, and family.

Many customers will have local access to the Internet for the first time.

The local measured service options address much of the opposition and will enable many customers to manage their bills and either lower them or avoid part or all of the EAS increment.

However, because EAS is revenue neutral to U S West, lost toll revenues must be made up in local rates, resulting in customers who will clearly be made worse off. Among the losers are customers who:

have a low, fixed income;

make few or no calls from the hub to the spoke (or vice versa); and

would not benefit from either of the measured options since they spend much time on the phone for business and social purposes, often because of limited mobility.

This group of customers should have an option which will allow them to avoid increased bills. The Commission's decision provides no such option and these customers will be forced to either pay higher bills or significantly curtail their use of the phone. On their behalf, I dissent.

RESPECTFULLY SUBMITTED this 12th day of February, 1997.

BOB ANDERSON, Commissioner